

H.R. 4613--The Debt Collection Act of 1981

I. Present Law and Background

A. Present law

Present law (the Internal Revenue Code and other Federal laws) contains several provisions governing the collection of debts owed to the Federal Government. These include the Privacy Act, the Federal Claims Collection Act of 1966, the Fair Credit Reporting Act, and the Internal Revenue Code provisions relating to the disclosure of tax returns and return information and the interest rate on tax refunds and deficiencies.

1. Tax-related provisions

Use of social security numbers

In general, under present law, individuals who apply for Federal assistance are not required to furnish their social security numbers as part of their application for assistance.

Screening potential debtors

Section 6103 of the Internal Revenue Code governs the disclosure of returns and return information. Included within the definition of return information is the amount of an individual's tax liability. Under present law, the fact of whether an individual has an outstanding tax liability, or the amount thereof, generally may not be disclosed without the taxpayer's consent.

Disclosure to agents of a Federal agency

Under present law, the Internal Revenue Service may disclose taxpayers' mailing addresses to officers and employees of Federal agencies for their use in collecting Federal debts. Those addresses generally may not be disclosed to the agents (e.g., private debt collection agencies or consumer reporting agencies) of those Federal agencies. However, addresses disclosed to the Department of Education may be used by its officers, employees, or agents for the purposes of locating taxpayers who have defaulted on student loans in order to collect those loans. Furthermore, addresses that have been disclosed to the Department of Education may be disclosed further to officers, employees, or agents of lenders, State or nonprofit guarantee agencies, and educational institutions. Unauthorized disclosure of tax returns or return

information is punishable by a fine of up to \$5,000 or imprisonment of up to 5 years, or both. Furthermore, wrongful disclosure may give rise to a civil action for damages.

Procedures for safeguarding tax returns and return information

Present law requires Federal agencies that receive tax returns and return information to comply with strict safeguard requirements. These requirements, however, do not apply to taxpayer mailing addresses received by agencies for Federal debt collection purposes. 1/

1/ These requirements are that the agency:

(a) Establish and maintain a permanent system of standardized records with respect to any request, the reason for such request, and the date of such request made by or of it and any disclosure of return or return information made by or to it;

(b) Establish and maintain a secure area or place in which tax returns or return information shall be stored;

(c) Restrict access to the returns or return information only to those persons whose duties or responsibilities require access and to whom disclosure is authorized;

(d) Provide such other safeguards which the IRS determines to be necessary or appropriate to protect the confidentiality of the returns or return information;

(e) Furnish a report to the IRS at such time and containing such information as required by Treasury regulations describing the procedures established and utilized by the recipient of the returns or return information for ensuring their confidentiality; and

(f) Upon completion of use of such returns or return information either--

(1) Return to the IRS the returns or return information (along with any copies made therefrom);

(2) Otherwise make the returns or return information undisclosable; or

(3) To the extent not so returned or made undisclosable, ensure that the safeguard provisions continue to be met, except to the extent that the returns or return information are disclosed in the course of any judicial or administrative proceeding and made a part of the public record thereof.

2. Nontax-related provisions

Privacy Act

The Privacy Act generally prevents a Federal agency from disclosing an individual's records without the individual's consent. Thus, delinquencies of debtors on their financial obligations to the Federal Government may not be referred to private debt collection agencies.

Federal Claims Collection Act

The Federal Claims Collection Act of 1966 deals in general with the collection of Federal debts. That Act, however, does not provide for the assessment of interest or penalties on debts owed to the Federal Government.

B. Background

H.R. 4613 (Mr. Conable) contains provisions that are similar to the tax-related provisions contained in S. 1249. ^{2/} S. 1249, which contains both tax- and nontax-related provisions

^{2/} H.R. 4614 (Mr. Danielson) contains provisions that are generally similar to the nontax-related provisions of S. 1249. H.R. 4614 has been referred to the Judiciary Committee. Other related nontax bills are H.R. 2811 (Mr. Brooks) and H.R. 3741 (Mr. Danielson). H.R. 2811, which was reported by the Government Operations Committee on May 14, 1981, and passed the House on May 18, 1981: (1) adds to the Privacy Act a definition for the term "consumer reporting agency," (2) allows Federal agencies to disclose individuals' records to consumer reporting agencies; (3) establishes conditions for the disclosure of information by one Federal lending agency to another; (4) requires the annual budget to contain information on agency debt collection activities; and (5) would require Inspectors General to conduct annual reviews of major debt programs. Each of these bills is discussed in greater detail in JCS-55-81, "Description of H.R. 4613 and Other Proposals Relating to Federal Debt Collection Procedures."

was reported by the Senate Governmental Affairs Committee on July 17, 1981, and was reported by the Finance Committee on December 3, 1981. 3/

3/ The tax-related provisions of S. 1249 would: (1) require individuals who apply for Federal loans or assistance to furnish their social security numbers; (2) permit the IRS to disclose to another Federal agency whether a Federal loan applicant has any outstanding tax liability; and (3) permit IRS mailing addresses to be used by agents of Federal agencies for the purpose of collecting or compromising Federal claims (however, strict safeguards would be imposed upon Federal agencies as a condition to receiving mailing addresses from the IRS). The nontax provisions of S. 1249 would: (1) allow Federal agencies to refer credit information on delinquent debtors to credit bureaus; (2) permit the offset of a Federal employee's salary or other authorized compensation to satisfy debts owed to the Federal Government; (3) make it a Federal offense to murder a Federal debt collector; (4) provide an open-ended statute of limitations in the case of Federal debt collection through the administrative offset of future Federal payments; (5) require the payment of interest on debts owed to the Federal Government; (6) permit U.S. attorneys to use the mail, State and local law enforcement officials, or private contractors to serve legal documents in the litigation of Federal debt collection cases; (7) require Federal agencies to report on their debt collection activities to the Treasury, the OMB, and the Congress; and (8) provide specific authority for Federal agencies to contract with private debt collection agencies for purposes of debt collection (other than Federal tax debts). (S. Rep. No. 97-287)

II. Description of H.R. 4613.

A. Use of social security numbers

Under the bill, Federal departments and agencies would require each individual who applies for credit, financial assistance, or any payment that may result in an indebtedness to the United States or any Federal agency to furnish his social security number. The number could be used only for verifying the applicant's identity.

B. Screening potential debtors

Under the bill, the IRS would be permitted to disclose to another Federal agency whether a Federal loan applicant has any outstanding tax or other liability under the Internal Revenue Code. Information concerning any liabilities in dispute could, however, not be disclosed. Furthermore, this disclosure could be made only for purposes of, and to the extent necessary in, determining whether a Federal loan applicant has outstanding liabilities. A Federal loan, for this purpose, would be a loan of money by, or guaranteed or insured by, the Federal Government or a Federal agency.

C. Disclosure to agents of a Federal agency

The bill would permit the IRS to disclose taxpayer mailing addresses to officers, employees, or agents (i.e., private debt collection agencies and consumer reporting agencies), of a Federal agency for the purpose of locating taxpayers in order to collect or compromise Federal claims. Disclosure to a consumer reporting agency, however, could be made only for the purpose of allowing it to prepare a commercial credit report on a delinquent taxpayer, for use by a Federal agency.

In order for a Federal agency to receive mailing addresses under this provision, it would be required to: (1) establish and maintain, to the satisfaction of OMB, a permanent system of standardized records with respect to disclosures to agents; (2) ensure, to the satisfaction of OMB, that the addresses are not incorporated in the general records of its agents or otherwise used by such agents for purposes other than locating taxpayers in order to collect or compromise Federal claims or prepare commercial credit reports for Federal agencies; (3) provide any other safeguards OMB determines to be necessary to protect confidentiality; (4) furnish an annual report to OMB that describes procedures established and utilized by the agency to ensure the confidentiality of the addresses disclosed to its agents; and (4) upon completion of the use of mailing addresses, provide a method for making them undisclosable.

Effective date

The provisions of the bill would become effective upon enactment.

